

Background note on workshop on Governance

Note from Secretariat

I. Background

1. At its first meeting in Nairobi (29-31 May 2018), the ad hoc open-ended expert group on marine litter and microplastics, decided that its second meeting would take place before the end of 2018, during which experts would further explore options for consideration at the fourth session of the United Nations Environment Assembly (UNEA) in 2019.
2. During the first meeting, governance emerged as a key topic which could benefit from additional discussions by the ad hoc open-ended expert group, possibly through a workshop format. For this reason, the second meeting of the ad hoc open-ended expert group in Geneva (3-7 December 2018) has been structured to include workshop discussions in breakout groups on the second day of the meeting to facilitate the collective reflection and the informal interaction of the experts on this topic.
3. This paper aims to facilitate the dialogue on governance with a focus, inter alia, on how to address the gaps in the existing international, regional and sub-regional frameworks to combat marine litter and microplastics. In doing so, experts are invited to explore options for governance identified in the assessment titled "[Combating marine plastic litter and microplastics: An assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches](#)". The assessment was presented by the United Nations Environment Programme at UNEA-3 in December 2017.

II. Framing the content of the workshop

4. The concept of governance is vast. Among the areas identified for further, focused discussion:
 - a. strengthening existing international treaties and non-binding instruments;
 - b. voluntary initiatives; and
 - c. developing a legally binding architecture.
 - d. major groups and stakeholder engagement;
5. An important aspect on governance relates to **funding and to implementation mechanisms**, the latter including monitoring and reporting standards, liability and compensation. Each group is invited to consider how these aspects will be addressed by the options presented in the assessment, i.e. the strengthening of existing international treaty regimes and non-binding instruments, the voluntary initiatives and the potential development of a new legally binding instrument.
6. Moreover, discussants are called to deliberate on **legal barriers to the implementation** of the proposed options. For the purposes of discussion, the definition of a "legal barrier" is any impediment or barrier established by, founded upon or generated by law, the absence of it or the

lack of its implementation and/or enforcement. Legal barriers to the implementation of a circular economy can be summarized in six areas: the lack of definitions and the occurrence of gaps in legislation; unclear definitions of targets in legislation; the definition of hard numerical limits in regulations; lagging or incomplete implementation or enforcement of legislation; inconsistent national implementation of international legislation; legislations that conflict each other because they represent conflicting values, for example with hygiene rules versus food waste.

III. Workshop format and rules of engagement

7. To enable all experts to be heard and participate effectively, experts will be divided into break-out groups. The discussions in each break-out group will be led by two co-facilitators, one from amongst the governments and one from the stakeholder participants, reflecting gender, geography and interests, plus senior experts and a note-taker from the secretariat. Co-facilitators will be designated by the Chairs of the ad hoc expert group.

8. Experts will be invited to join a break-out group to engage in detailed discussions and how relevant issues and synergies with other areas can best be reflected in different governance options. They are invited to refer to the background assessments and consolidated paper,¹ especially on areas where more analysis is required, and ways of overcoming the major barriers to combating marine litter and microplastics.

9. Proceedings will be undertaken in English, with interpretation available in one break-out group only. The format of the meeting will be informal, with all experts invited to speak during the discussions.

IV. Expected outcomes

10. The main outcomes of the breakout group discussions will be a set of recommendations to be presented to the plenary for further consideration.

V. Questions for the break-out groups

11. While the discussions will be informal, some of the questions that can guide the experts are the following:

- a. What are the top legal barriers and possible response options to the implementation of the proposed governance options (ref. annex of UNEP/AHEG/2018/2/2)?

¹ To facilitate discussions at its second meeting, at its first meeting in Nairobi (29-31 May 2018), the ad hoc open-ended expert group on marine litter and microplastics, requested the secretariat to consolidate the four background discussion papers, drawing on the four information documents, i.e. UNEP/AHEG/2018/1/2 on “Barriers to combating marine litter and microplastics, including challenges related to resources in developing countries”; UNEP/AHEG/2018/1/3 on “National, regional and international response options, including actions and innovative approaches, and voluntary and legally binding governance strategies and approaches”; UNEP/AHEG/2018/1/4 on “Environmental, social and economic costs and benefits of different response options”; and UNEP/AHEG/2018/1/5 on “Feasibility and effectiveness of different response options”. The four documents and the consolidated one are available at: <https://papersmart.unon.org/resolution/adhoc-oeeg> and <https://papersmart.unon.org/resolution/second-adhoc-oeeg>.

- b. Is status quo an option?
- c. What are key elements to consider for the proposed voluntary global umbrella mechanism (see option 2 and phase 1 of option 3 of the assessment UNEP/AHEG/2018/1/INF/3)?
- d. What are key elements to consider for the proposed legally binding architecture (see option 3 of the assessment UNEP/AHEG/2018/1/INF/3)?
- e. What can be the role of the different actors (governments, civil society, private sector, intergovernmental organizations, secretariats of multilaterals environmental agreements, and other international platforms) in implementing the proposed governance options?
- f. What mechanisms can support the implementation of the proposed governance options (e.g. monitoring and reporting standards, funding mechanisms, liability and compensation)?

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